

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

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ALVIN COREY,

Petitioner,

v.

J. BALTAZAR, et al.,

Respondent.

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Civil Action No. 3:15-CV-1335

(Judge Kosik)

**ORDER**

AND NOW, THIS 7<sup>th</sup> DAY OF JANUARY, 2016, IT APPEARING TO THE COURT  
THAT:

[1] Petitioner, Alvin Corey, filed the instant petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, on July 8, 2015 (Doc. 1);

[2] After an extension of time was granted, Respondents responded to the petition for writ of habeas corpus (Doc. 7), on August 5, 2015, and filed a supplement (Doc. 8), on August 20, 2015;

[3] Petitioner filed a Statement of Reasons (Doc. 9), on August 20, 2015;

[4] The action was referred to Magistrate Judge Martin C. Carlson;

[5] On August 31, 2015, Petitioner filed a response (Doc. 10);

[6] The Magistrate Judge issued a Report and Recommendation (Doc. 11), on October 29, 2015, recommending that the petition be denied and that a certificate of appealability not be issued;

[7] Specifically, the Magistrate Judge found that the Petitioner failed to exhaust his administrative remedies and that the petition should be dismissed without prejudice for this reason. Alternatively, the Magistrate Judge also found that the petition failed on its merits and should be dismissed, because the Petitioner did not carry his burden of establishing that the Bureaus of Prisons' discretionary decision concerning the Residential Re-entry Center ("RRC") placement, violated any rights guaranteed to him by the Constitution or laws of the United States;

[8] Petitioner has failed to file timely objections to the Magistrate Judge's Report and Recommendation, but sent a letter (Doc. 12) to the Court, on October 29, 2015, reiterating his complaints in the petition;

AND, IT FURTHER APPEARING THAT:

[9] If no objections are filed to a Magistrate Judge's Report and Recommendation, the Plaintiff is not statutorily entitled to a *de novo* review of his claims. 28 U.S.C.A. § 636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987); and

[10] We have considered the Magistrate Judge's report and we concur with his recommendation that Petitioner's failure to exhaust his administrative remedies is a threshold matter that requires the Court to dismiss the petition without prejudice to the filing of a new § 2241 petition, after the Petitioner fully exhausts his administrative remedies. Therefore, we agree with the Magistrate Judge, that the petition should be dismissed without prejudice at this time.

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

[1] The Report and Recommendation of Magistrate Judge Martin C. Carlson dated October 29, 2015 (Doc. 11) is **ADOPTED**;

[2] Petitioner's petition for writ of habeas corpus (Doc. 1) is **DENIED WITHOUT PREJUDICE**;

[3] The Clerk of Court is directed to **CLOSE** this case and **FORWARD** a copy of this Order to the Magistrate Judge; and

[4] Based on the Court's conclusions herein, there is no basis for the issuance of a certificate of appealability.

s/Edwin M. Kosik  
Edwin M. Kosik  
United States District Judge